

## SENATE BILL No. 543

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-20.2; IC 6-1.1-21.

**Synopsis:** Residential rental property tax credit. Provides a property tax credit to owners of residential rental property in the amount of 10% of the residential rental property owner's property tax liability. Provides that the residential rental property tax credit is funded through the property tax replacement fund.

**Effective:** January 1, 2007 (retroactive).

**Lanane**

January 23, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

C  
o  
p  
y



First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 543

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-20.2 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2007 (RETROACTIVE)]:

4       **Chapter 20.2. Residential Rental Property Credit**

5       **Sec. 1. As used in this chapter, "residential rental property" has**  
6       **the meaning set forth in IC 6-1.1-20.6-5.**

7       **Sec. 2. (a) A person who on March 1 of a particular year either**  
8       **owns or is buying residential rental property under a contract that**  
9       **provides that the person is to pay the property taxes on the**  
10       **residential rental property is entitled each calendar year to a credit**  
11       **against the property taxes that the person pays on the person's**  
12       **residential rental property.**

13       **(b) The amount of the credit to which the person is entitled**  
14       **equals the product of:**

15               **(1) ten percent (10%); multiplied by**

16               **(2) the amount of the person's property tax liability, as that**  
17       **term is defined in IC 6-1.1-21-5, that is:**



C  
o  
p  
y

(A) attributable to the residential rental property during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of a person's property tax liability that is attributable to the person's residential rental property, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the person's residential rental property is located must be applied first against the assessed value of the person's residential rental property before those deductions are applied against any other property.

(d) A person may claim the credit provided by this section only to the extent that the person has not claimed the credit provided by IC 6-1.1-20.6 for the same residential rental property.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each residential rental property for which a residential rental property credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

Sec. 3. (a) A person who desires to claim the credit provided by section 2 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the residential rental property is located. The statement must include the parcel number or key number of the real estate and the name of the city, town, or township in which the real estate is located. With respect to real property, the statement must be filed during the twelve (12) months before June 11 of the year prior to the first year for which the person wishes to obtain the credit for the residential rental property. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the credit is allowed.

(b) If a person who is receiving the credit provided by this chapter changes the use of the person's real property, so that part or all of that real property no longer qualifies for the residential rental property credit provided by this chapter, the person must file a certified statement with the auditor of the county, notifying the auditor of the change of use within sixty (60) days after the date of that change. A person who changes the use of the person's real

**C  
O  
P  
Y**



property and fails to file the statement required by this subsection is liable for the amount of the credit the person was allowed under this chapter for that real property.

(c) An individual who receives the credit provided by section 2 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the credit in the following year is not required to file a statement to reapply for the credit following the removal of the joint owner if:

- (1) the individual is the sole owner of the property following the death of the individual's spouse;
- (2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or
- (3) the individual is awarded sole ownership of property in a divorce decree.

**Sec. 4. Before April 1 of each year prior to the year in which the credit is allowed, the auditor of each county shall certify to the department of local government finance the amount of the assessed valuation which qualifies for the residential rental property credit. Before February 1 of each year, the auditor of each county shall certify to the department of local government finance the amount of residential rental property credits allowed in that county for that calendar year.**

SECTION 2. IC 6-1.1-21-2.5, AS ADDED BY P.L.246-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 2.5. (a) Annually, before the department determines the eligible property tax replacement amount for a year under section 3 of this chapter and the department of local government finance makes its certification under section 3(b) of this chapter, the budget agency shall determine the sum of the following:

- (1) One billion one hundred twenty-one million seven hundred thousand dollars (\$1,121,700,000).
- (2) An amount equal to the net amount of revenue, after deducting collection allowances and refunds, that the budget agency estimates will be collected in a particular calendar year from the part of the gross retail and use tax rate imposed under IC 6-2.5 equal to one percent (1%).

The estimate made under this subsection must be consistent with the latest technical forecast of state revenues that is prepared for distribution to the general assembly and the general public and available to the budget agency at the time that the estimate is made.

**C  
O  
P  
Y**



(b) The department may not distribute:

(1) eligible property tax replacement amounts; ~~and~~

(2) eligible homestead credit replacement amounts; ~~and~~

(3) **eligible residential rental property credit replacement amounts;**

for a year under this chapter that, in the aggregate, ~~is~~ **are** less than the amount computed under subsection (a).

(c) Annually, before the department determines the eligible property tax replacement amount for a year under section 3 of this chapter and the department of local government finance makes its certification under section 3(b) of this chapter, the budget agency shall determine whether the total amount of property tax replacement credits granted in Indiana under section 5 of this chapter, **residential rental property credits granted in Indiana under IC 6-1.1-20.2-2**, and homestead credits granted in Indiana under IC 6-1.1-20.9-2 for a year, determined without applying subsection (b), will be less than the amount determined under subsection (b). The budget agency shall give notice of its determination to the members of the board and, in an electronic format under IC 5-14-6, the general assembly. If the budget agency determines that the amount determined under subsection (b) will not be exceeded in a particular year, the board shall increase for that year the percentages used to determine a taxpayer's property tax replacement credit amount and the homestead credit percentage applicable under IC 6-1.1-20.9-2 so that the total amount of property tax replacement credits granted in Indiana under section 5 of this chapter, **residential rental property credits granted in Indiana under IC 6-1.1-20.2-2**, and homestead credits granted in Indiana under IC 6-1.1-20.9-2 at least equals the amount determined under subsection (b). In making adjustments under this subsection, the board shall increase percentages in the following order until the total of property tax replacement credits granted under section 5 of this chapter, **residential rental property credits granted under IC 6-1.1-20.2-2**, and homestead credits granted under IC 6-1.1-20.9-2 for the year at least equals the amount determined under subsection (b):

(1) The homestead credit percentage specified in IC 6-1.1-20.9-2 until the homestead percentage reaches the lesser of:

(A) thirty percent (30%); or

(B) the percentage at which the total of property tax replacement credits granted under section 5 of this chapter, **residential rental property credits granted under IC 6-1.1-20.2-2**, and homestead credits granted under IC 6-1.1-20.9-2 for the year at least equals the amount

C  
o  
p  
y



determined under subsection (b).

(2) If the amount determined under subsection (b) is not exceeded after increasing the homestead percentage under subdivision (1), the board shall increase the property tax replacement credit percentage specified in section 2(j)(1) and 2(l)(1) of this chapter until the property tax replacement percentage reaches the lesser of:

(A) seventy percent (70%); or

(B) the percentage at which the total of property tax replacement credits granted under section 5 of this chapter, **residential rental property credits granted under IC 6-1.1-20.2-2**, and homestead credits granted under IC 6-1.1-20.9-2 for the year, as adjusted under this subsection, at least equals the amount determined under subsection (b).

(3) If the amount determined under subsection (b) is not exceeded after making all possible increases in credit percentages under subdivisions (1) and (2), the board shall increase the property tax replacement credit percentages specified in section 2(j)(2), 2(j)(3), 2(l)(2), and 2(l)(3) of this chapter to the percentage at the total of property tax replacement credits granted under section 5 of this chapter, **residential rental property credits granted under IC 6-1.1-20.2-2**, and homestead credits granted under IC 6-1.1-20.9-2 for the year, as adjusted under this subsection, at least equals the amount determined under subsection (b).

(d) The adjusted percentages set under subsection (c):

(1) are the percentages that apply under:

(A) section 5 of this chapter to determine a taxpayer's property tax replacement credit amount; and

(B) IC 6-1.1-20.9-2 to determine a taxpayer's homestead credit; and

(2) must be used by the:

(A) department in estimating the eligible property tax replacement amount under section 3 of this chapter; and

(B) department of local government finance in making its certification under section 3(b) of this chapter;

and for all other purposes under this chapter and IC 6-1.1-20.9 related to distributions under this chapter;

for the particular year covered by a budget agency's determination under subsection (c).

SECTION 3. IC 6-1.1-21-3, AS AMENDED BY P.L.162-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 3. (a) The department,

C  
o  
p  
y



with the assistance of the auditor of state and the department of local government finance, shall determine an amount equal to the eligible property tax replacement amount, which is the estimated property tax replacement.

(b) The department of local government finance shall certify to the department the ~~amount~~ **amounts** of:

**(1) residential rental property credits provided under IC 6-1.1-20.2; and**

**(2) homestead credits provided under IC 6-1.1-20.9;** which are allowed by the county for the particular calendar year. The department of local government finance shall make the certification based on the best information available at the time the certification is made.

(c) If there are one (1) or more taxing districts in the county that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter, the department of local government finance shall estimate an additional distribution for the county in the same report required under subsection (a). This additional distribution equals the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Estimate that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the estimated property tax replacement amount attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(d) The sum of the amounts determined under subsections (a) through (c) is the particular county's estimated distribution for the calendar year.

SECTION 4. IC 6-1.1-21-4, AS AMENDED BY P.L.228-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of **the following**:

(1) Each county's total eligible property tax replacement amount for that year. ~~plus~~

C  
o  
p  
y



(2) The total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year. ~~plus~~

(3) An amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

**(4) The total amount of residential rental property credits that are provided under IC 6-1.1-20.2 and allowed by each county for that year.**

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of

C  
o  
p  
y





the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (g) and subject to subsection (h), the department shall not distribute under subsection (b) and section 10 of this chapter a percentage, determined by the department, of the money that would otherwise be distributed to the county under subsection (b) and section 10 of this chapter if:

(1) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;

(2) by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section;

(3) the county assessor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

(4) the county assessor has not forwarded to the department of local government finance in a timely manner sales disclosure forms under IC 6-1.1-5.5-3(b);

(5) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(6) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in

**C  
o  
p  
y**



a timely manner;

(7) the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b);

(8) the county has not established a parcel index numbering system under 50 IAC 12-15-1 in a timely manner; or

(9) a township or county official has not provided other information to the department of local government finance in a timely manner as required by the department.

(f) Except as provided in subsection (i), money not distributed for the reasons stated in subsection (e) shall be distributed to the county when the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(g) The restrictions on distributions under subsection (e) do not apply if the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(h) The department shall give the county auditor at least thirty (30) days notice in writing before withholding a distribution under subsection (e).

(i) Money not distributed for the reason stated in subsection (e)(6) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (f).

SECTION 5. IC 6-1.1-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Sec. 7. (a) Notwithstanding IC 6-1.1-26, any taxpayer who is entitled to a credit under this chapter or who has properly filed for and is entitled to a credit under **IC 6-1.1-20.2 or** IC 6-1.1-20.9, and who, without taking the credit, pays in full the taxes to which the credit applies, is entitled to a refund, without interest, of an amount equal to the amount of the credit. However, if the taxpayer, at the time a refund is claimed, owes any other taxes, interest, or penalties payable to the county treasurer to whom the taxes subject to the credit were paid, then

C  
o  
p  
y



the credit shall be first applied in full or partial payment of the other taxes, interest, and penalties and the balance, if any, remaining after that application is available as a refund to the taxpayer.

(b) Any taxpayer entitled to a refund under this section shall be paid that refund from proceeds of the property tax replacement fund. However, with respect to any refund attributable to a homestead credit, the refund shall be paid from that fund only to the extent that the percentage homestead credit the taxpayer was entitled to receive for a year does not exceed the percentage credit allowed in IC 6-1.1-20.9-2(d) for that same year. Any refund in excess of that amount shall be paid from the county's revenue distributions received under IC 6-3.5-6.

(c) The state board of accounts shall establish an appropriate procedure to simplify and expedite the method for claiming these refunds and for the payments thereof, as provided for in this section, which procedure is the exclusive procedure for the processing of the refunds. The procedure shall, however, require the filing of claims for the refunds by not later than June 1 of the year following the payment of the taxes to which the credit applied.

SECTION 6. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]

(a) Notwithstanding IC 6-1.1-20.2-3(a), as added by this act, a person that desires to claim the credit provided by IC 6-1.1-20.2-2, as added by this act, for property taxes first due and payable in 2008 must file the statement required by IC 6-1.1-20.2-3(a), as added by this act, before July 11, 2007.

(b) Notwithstanding IC 6-1.1-20.2-4, as added by this act, with respect to property taxes first due and payable in 2008, the auditor of each county shall certify the amount of the assessed valuation which qualifies for the residential rental property credit to the department of local government finance by August 1, 2007.

SECTION 7. An emergency is declared for this act.

C  
o  
p  
y

